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DEPARTMENT OF EDUCATION

34 CFR Chapter III

Proposed priority--National Institute on Disability and Rehabilitation Research--Disability and Rehabilitation Research Projects and Centers Program--Rehabilitation Engineering Research Centers

CFDA Number: 84.133E-1.

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Proposed priority.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority for the Disability and Rehabilitation Research Projects and Centers Program administered by the National Institute on Disability and Rehabilitation Research (NIDRR).

Specifically, this notice proposes a priority for

Rehabilitation Engineering Research Centers (RERCs):

Hearing Enhancement. The Assistant Secretary may use this priority for a competition in fiscal year (FY) 2013 and later years. We take this action to focus research attention on areas of national need. We intend to use this priority to improve rehabilitation services and outcomes for individuals with disabilities.

DATES: We must receive your comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Address all comments about this notice to Marlene Spencer, U.S. Department of Education, 400 Maryland Avenue, SW., room 5133, Potomac Center Plaza (PCP), Washington, DC 20202-2700.

If you prefer to send your comments by email, use the following address: marlene.spencer@ed.gov. You must include "Proposed Priorities for RERCs" and the priority title in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Marlene Spencer.

Telephone: (202) 245-7532 or by email:
marlene.spencer@ed.gov.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

This notice of proposed priority is in concert with NIDRR's currently approved Long-Range Plan (Plan). The Plan, which was published in the Federal Register on February 15, 2006 (71 FR 8165), can be accessed on the Internet at the following site:
www.ed.gov/about/offices/list/osers/nidrr/policy.html.

Through the implementation of the Plan, NIDRR seeks to: (1) improve the quality and utility of disability and rehabilitation research; (2) foster an exchange of expertise, information, and training methods to facilitate the advancement of knowledge and understanding of the unique needs of traditionally underserved populations; (3) determine best strategies and programs to improve rehabilitation outcomes for underserved populations; (4) identify research gaps; (5) identify mechanisms for integrating research and practice; and (6) disseminate findings.

This notice proposes a priority that NIDRR intends to use for an RERC competition in FY 2013 and possibly in later years. However, nothing precludes NIDRR from publishing additional priorities, if needed. Furthermore, NIDRR is under no obligation to make awards for this priority. The decision to make an award will be based on the quality of applications received and available funding.

Invitation to Comment: We invite you to submit comments regarding this notice. To ensure that your comments have maximum effect in developing the notice of final priorities, we urge you to identify clearly the specific topic that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from this proposed priority. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this notice in room 5140, 550 12th Street, SW., PCP, Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under FOR FURTHER INFORMATION CONTACT.

Purpose of Program: The purpose of the Disability and Rehabilitation Research Projects and Centers Program is to plan and conduct research, demonstration projects,

training, and related activities, including international activities; to develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities; and to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (Rehabilitation Act).

Rehabilitation Engineering Research Centers (RERCs) Program

The purpose of NIDRR's RERCs program, which is funded through the Disability and Rehabilitation Research Projects and Centers Program, is to improve the effectiveness of services authorized under the Rehabilitation Act. It does so by conducting advanced engineering research, developing and evaluating innovative technologies, facilitating service delivery system changes, stimulating the production and distribution of new technologies and equipment in the private sector, and providing training opportunities. RERCs seek to solve rehabilitation problems and remove environmental barriers to improvements in employment, community living and participation, and health and function outcomes of individuals with disabilities.

The general requirements for RERCs are set out in subpart D of 34 CFR part 350 (What Rehabilitation Engineering Research Centers Does the Secretary Assist?).

Additional information on the RERCs program can be found at: www.ed.gov/rschstat/research/pubs/index.html.

Program Authority: 29 U.S.C. 762(g) and 764(b)(3).

Applicable Program Regulations: 34 CFR part 350.

PROPOSED PRIORITY:

This notice contains one proposed priority.

Hearing Enhancement.

Background:

Approximately 34.2 million Americans have a hearing impairment (Kochkin, 2009). An untreated hearing impairment has profound implications for people across the lifespan (e.g., in education, school-to-work transition, employment, community participation, and general social and emotional well-being) (Pallarito, 2010; Kochkin, 2010b; Chisolm et al., 2007a).

Research and development related to hearing enhancement technologies has produced advances in areas related to digital and wireless hearing aids, assistive technologies, cochlear and middle ear implants, and aural rehabilitation, but many research and development needs remain (Fellinger et al., 2012; Stender, 2011; Groth and

Anthonsen, 2010; Kochkin, 2010a; Chisolm et al., 2007b; Sweetow and Sabes, 2007; Pirzanski, 2006). For example, research has indicated that while 95 percent of people with a hearing impairment can benefit from hearing aids, only 23 percent actually use them (Kochkin, 2007). Among the many reasons for not using hearing aids are characteristics of the hearing aids themselves (e.g., the hearing aids are uncomfortable and unreliable, do not work well in noisy environments, and do not work seamlessly across multiple settings and technologies) (Kochkin, 2010a; Kochkin, 2007). Assistive listening devices (e.g., FM systems, infrared systems, and audio induction loop systems) still have significant limitations related to portability, usability, and performance, particularly during group discussions (Harkins and Tucker, 2007). More research and development is needed on cochlear and middle ear implants to determine and optimize performance and benefits in real-life situations (Peterson et al., 2010; Rameh et al., 2010).

Successful hearing enhancement technologies have been demonstrated to improve the quality of life for people with hearing impairments (Fellinger et al., 2012; Kochkin, 2010b; Chisolm et al., 2007a, 2007b). Accordingly, NIDRR seeks to fund an RERC to address problems that prevent the use of, or reduce the use and benefit of, hearing

enhancement technologies, and to optimize options for people with hearing impairments.

References:

Chisolm, T.H., Johnson, C.E., Danhaer, J.L., Portz, L.J.P, Abrams, H.B., Lesner, S., McCarthy, P.A., and Newman, C.W. (2007a). A systematic review of health-related quality of life and hearing aids: Final report of the American Academy of Audiology Task Force on the Health-Related Quality of Life Benefits of Amplification in Adults. *Journal of the American Academy of Audiology*, 18: 151-183.

Chisolm, T.H., Noe, C.M., McArdle, R., and Abrams, H. (2007b). Evidence for the use of hearing assistive technology by adults: The role of the FM system. *Trends in Amplification*, 11(2): 73-89.

Fellinger, J., Holzinger, D., and Pollard, R. (2012). Mental health of deaf people. *The Lancet*, 379: 1037-1044.

Groth, J., and Anthonsen, F. (2010). Fewer wires, less complexity, and more connections: The new challenge for wireless hearing instruments. *Hearing Review*, 17(6): 28-36.

Harkins, J., and Tucker, P. (2007). An internet survey of individuals with hearing loss regarding assistive listening devices. *Trends in Amplification*, 11(2): 91-100.

Kochkin, S. (2010a). MarkeTrak VIII: Consumer satisfaction with hearing aids is slowly increasing. *Hearing Journal*, 63(1): 19-24.

Kochkin, S. (2010b). MarkeTrak VIII: The efficacy of hearing aids in achieving compensation equity in the workplace. *Hearing Journal*, 63(10): 19-26.

Kochkin, S. (2009). MarkeTrak VIII: 25-year trends in the hearing health market. *Hearing Review*, 16 (11): 12-31.

Kochkin, S. (2007). MarkeTrak VII: Obstacles to adult non-user adoption of hearing aids. *Hearing Journal*, 60(4): 27-43.

Pallarito, K. (2010). Teach patients who hear "well enough" the real cost of neglecting hearing loss. *Hearing Journal*, 63(8): 19-25.

Peterson, N.R., Pisoni, D.B., & Miyamoto, R.T. (2010). Cochlear implants and spoken language processing abilities: Review and assessment of the literature. *Medicine, Clinical Neurology and Exercise & Occupational Therapy*, 28(2).

Pirzanski, C. (2006, August). Earmolds and hearing aid shells: A tutorial part 4: BTE styles, materials, and acoustic modifications. *Hearing Review*.

Rameh, C., Meller, R., Lavielle, J., Deveze, A., and Magnan, J. (2010). Long-term patient satisfaction with

different middle ear implants in sensorineural hearing loss. *Otology & Neurotology*, 31(6): 883-892.

Stender, T. (2011). Phone and TV solutions for better hearing. *Hearing Review*, 18(10): 24-30.

Sweetow, R.W., and Sabes, J.S. (2007). Technologic advances in aural rehabilitation: Applications and innovative methods of service delivery. *Trends in Amplification*, 11(2): 101-111.

Proposed Priority:

The Assistant Secretary for Special Education and Rehabilitative Services proposes the following priority for the establishment of a Rehabilitation Engineering Research Center (RERC) on Hearing Enhancement. The RERC must focus on innovative technological solutions, new knowledge, and concepts that will improve the lives of individuals with disabilities.

Under this priority, the RERC must research, develop, and evaluate technologies, methods, and systems that will improve the accessibility, usability, and performance of hearing enhancement technologies (e.g., hearing aids, ear molds, assistive listening devices, and implants) for people with hearing loss, including but not limited to people with untreated hearing loss. This includes: (a) addressing technological factors that prevent or reduce

adoption of and benefit from hearing enhancement devices (e.g., hearing aid and implant design features, ear mold fit and comfort, and assistive listening devices and technologies for group settings); (b) improving the compatibility of hearing enhancement technologies with other technologies such as cell phones, mobile devices, television, and the Internet); (c) improving the performance of hearing enhancement devices in social environments (e.g., school, work, recreation, and entertainment); and (d) enhancing aural rehabilitation and consumer involvement strategies (e.g., online access to peer and expert input on hearing technologies and communication strategies; consumer focus groups and surveys; and consumer beta testing and review of products) to maximize hearing enhancement in real-life settings. The RERC must involve key stakeholders (including but not limited to people with hearing loss) in the design and implementation of RERC activities.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the Federal Register. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Priority: We will announce the final priority in a notice in the Federal Register. We will determine the final priority after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does not solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the Federal Register.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may--

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an "economically significant" rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This proposed regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency--

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account--among other things and to the extent practicable--the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental,

public health and safety, and other advantages;
distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives--such as user fees or marketable permits--to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

We are issuing this proposed priority only upon a reasoned determination that its benefits justify its costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes

that this proposed priority is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action would not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

The benefits of the Disability and Rehabilitation Research Projects and Centers Programs have been well established over the years, as projects similar to the one envisioned by the proposed priority have been completed successfully. Establishing new RERCs based on the proposed priority would generate new knowledge through research and development and improve the lives of individuals with disabilities. The new RERCs would generate, disseminate, and promote the use of new information that would improve the options for individuals with disabilities to fully participate in their communities.

Intergovernmental Review: This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 5075, PCP, Washington, DC 20202-2550. Telephone: (202) 245-7363. If you use a TDD or TTY, call the FRS, toll free, at 1-800-877-8339.

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Dated: January 14, 2013

Michael Yudin,
Acting Assistant Secretary for
Special Education and
Rehabilitative Services.

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